STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: PAYPHONE SERVICES	DOCKET NO. INU-99-1

ORDER

(Issued June 10, 1999)

On March 22 and March 25, 1999, Pay Phones Concepts, Inc. (Complainant), filed two complaints with the Utilities Board (Board). The first complaint is directed at the cost of the business lines that payphone services providers (PSPs) order from local exchange service providers, while the second complaint is directed at some of the features included in those business lines (specifically, the call signaling that may or may not be provided with those lines). On April 23, 1999, the Board initiated this investigation to receive comment and information from local exchange service providers and other interested persons. Answers, comments, or appearances were filed by U S WEST Communications, Inc. (U S West), GTE Midwest Incorporated (GTE), Frontier Communications, Inc. (Frontier), the Iowa Telecommunications Association (ITA), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and the Iowa Payphone Association. The complaints, answers, and comments may be summarized as follows.

1. The March 22, 1999, "Formal Complaint."

The first complaint, filed on March 22, 1999, alleges that § 276 of the Telecommunications Act of 1996 prohibits Bell operating companies from subsidizing their payphone services or otherwise preferring or discriminating in favor of their own payphone services. The FCC subsequently promulgated regulations to implement § 276 through four orders[1]. As a result of these orders, all local exchange companies are required to have in effect both federal and state tariffs for payphone features and options offered to PSPs on an unbundled basis. The FCC regulations further require that the tariffs be cost-based, nondiscriminatory, and consistent with both § 276 and the Computer III guidelines, including the "new services" test. Review of the state payphone tariffs for compliance with these federal requirements, including the new services test, was delegated to the states, although the FCC claimed some jurisdiction. ("States unable to review these tariffs may require the LECs operating in their state to file these tariffs with the Commission." Order On Reconsideration, ¶ 163.)

The new services test is set out at 47 C.F.R. § 61.49(g)(2) and basically limits the rate to the cost of providing the specific service in question plus "a reasonable portion of the carrier's overhead costs." This seems to be the test that Pay Phone Concepts is asking the Board to apply to the various tariffed rates that Iowa LECs use to provide service to PSPs.

In their answers, the LECs basically claim that their payphone service rates comply with the new services test, although no supporting data are offered. In specific comments, U S West states that it has certified to the FCC that its payphone rate is in full compliance with the new services test. GTE states that its payphone access line rates are below cost because it proposed a higher payphone line rate in 1997, but the Board rejected the proposal and required GTE to use its (lower) business line rate for payphone access. The ITA argues that so long as the business rate is charged for payphone access, as required by Board rule 22.3(5), the payphone access rate is cost-based and, therefore, complies with the federal requirements.

2. The March 22, 1999, "Complaint."

This complaint, directed at all LECs operating in Iowa, asks the Board to require the LECs to provide certain telephone company signaling on all Central Office lines offered to the public. The Complainant alleges that all telco switches with basic touch-tone capabilities also have these signaling features available. These signals are allegedly required by the PSP in order for it to distinguish between a call that is answered (and for which there can be a charge) and some calls that *appear* to have been answered, but for which there should be no charge.

Each of the LECs argues that, due to the lack of detail in the complaint, it is difficult to determine exactly what is being alleged, but to the extent they are able to

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[1] In the Matter of Implementation of the Pay Telephone Reclassification and Competition Provisions of the Telecommunications Act of 1996, Report and Order (Sept. 10, 1996); Order on Reconsideration (Nov. 8, 1996); First

discern the issues the LECs generally assert (1) much, and perhaps all, of the requested signaling is already available on their lines in Iowa; (2) if the PSPs want special signaling they should be required to pay for it; and (3) some of the identified "problems" are beyond the control of the LEC. Each LEC also argues that the allegations in the complaint about certain Bellcore industry standards and about a lack of cooperation from LECs are incorrect. The LECs claim that Bellcore provides only technical industry standards, not business practices. Further, each LEC states that the Complainant did not contact the LEC to discuss its concerns prior to filing its complaints, so there has been no opportunity for any of the LECs to cooperate, or fail to cooperate, with the Complainant.

U S West states that, unless there is an equipment failure at a particular location, it is not aware of any lines that lack the basic signals identified by the Complainant. U S West also argues that the Complainant's concerns for cell phone calls that are not completed are beyond U S West's control and can only be addressed by the cellular service provider.

Frontier indicates that, with one possible exception, their rates for pay phones are less than their average cost per access line allocated to local service under the FCC's relative usage allocation methodology, indicating the rates are not excessive. The one possible exception is the Treynor exchange, which has EAS into Omaha. Frontier does not explain how this affects the calculation.

Common Carrier Bureau Order (April 4, 1997); and Second Common Carrier Bureau Order (April 15, 1997).

GTE states that it provides three types of service to which PSPs may subscribe, including regular business service and a "smart" service that provides certain central office functions necessary for a basic coin phone to operate. Otherwise, GTE's answer is similar to U S West's.

In addition to the comments offered by U S West, Frontier, and GTE, the ITA argues that circumstances may be different for different LECs, such that the Board should dismiss the pending complaints and direct Pay Phone Concepts, Inc., to file separate complaints if they have specific issues with particular LECs with which they do business.

3. The Iowa Payphone Association Comments.

The Iowa Payphone Association does not address either of the concerns presented by Complainant. Instead, the Payphone Association raises a new issue, claiming that U S West is now billing a new "PSD" charge on each public access line (pursuant to its FCC tariff). The Payphone Association is concerned that U S West may not be assessing the new charge to its own payphone service division, identified as U S WEST Public Services. The Payphone Association asks the Board to investigate whether U S West is dealing with its own division in an appropriate manner.

ANALYSIS

It appears each of the rate-regulated LECs is already aware of the federal standards concerning the rates it can charge for a payphone access line. Further, it appears each LEC believes it is in compliance with those standards when it charges a regular business line rate for payphone services. It further appears most, if not all, of the LECs are already providing normal signaling to all business lines, including payphones. Based upon the complaint and the responses, there does not appear to be any industry-wide problem for the Board to review in this docket and, accordingly, there is no reasonable basis for further investigation of the general complaints made by Complainant. If Complainant has specific complaints based upon its actual experience with any particular LEC or any particular location, then the inquiry should focus on those specific situations.

Accordingly, the Board will provide Complainant with an opportunity to file additional information concerning any specific situations which are alleged to raise any of the problems identified in its general complaints. That additional information should include an identification of the LEC, the exchange, the relevant dates, and the line number involved in each alleged problem, along with an explanation of any efforts Complainant has made to resolve the problem through direct discussions with the ILEC. Any such information should be filed within 14 days of the date of the order. If no specific information is filed, the Pay Phone Concepts, Inc. portion of the docket will be closed. After that portion of the docket is closed, if Complainant has any specific problems with any Iowa LECs, it can file a separate complaint outside the scope of this general docket.

The Board will also forward the Iowa Payphone Association comments to U S West for a response within 14 days of the date of the order.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Pay Phone Concepts, Inc., may file additional information in this docket concerning any specific situations which are alleged to raise any of the problems identified in its general complaints. That additional information must include an identification of the LEC, the exchange, and the line number involved in each alleged problem, along with an explanation of any efforts Pay Phone Concepts, Inc., has made to resolve the problem through direct discussions with the ILEC. Any such information must be filed within 14 days of the date of this order to be considered in this docket.

2. The Executive Secretary of the Board shall forward copies of this Order and the comments filed in this docket by the Iowa Payphone Association to U S WEST Communications, Inc., for an answer pursuant to IOWA CODE § 476.3 (1999), to be filed within 14 days of the date of this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

Dated at Des Moines, Iowa, this 10th day of June, 1999.